IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4409 OF 2004

Vishal Dattatraya Bhadale .. Petitioner
Vs.
Chandrakant Maruti Bhadale & Ors. .. Respondents.

Mr.S.J.Rairkar for the petitioner.

CORAM : D.B.BHOSALE, J.

DATED : 23RD FEBRUARY, 2005

P.C.:

. Heard Mr.Rairkar, learned counsel for the petitioner.

2. Both the courts below have concurrently held that the petitioner-plaintiff has no right to seek injunction restraining respondent-defendant nos.6 to 8 from alienating the suit property and stay to the execution of the judgment and decree (Special Darkhast No.246 of 1999) passed in the earlier suit that was filed against the petitioner's father. In the earlier round of litigation though the petitioner was not party, his father was representing all the properties which the petitioner is claiming in the instant proceedings and admittedly the judgment and decree in that suit has attained finality. In

Special Civil Suit No.757 of 2001 the petitioner filed application Exhibit-5, seeking the relief of injunction and stay to Special Darkhast No.246 of 1999, which has been rejected by both the courts below holding that the petitioner has other remedies under the provisions of Code of Civil Procedure. There is also an observation that no prima facie case is made out for issuing order of injunction and, therefore, application Exhibit-5 has been rejected. Keeping that in view and considering that there are concurrent findings and that there is sufficient material on record to sustain those findings and considering extremely limited jurisdiction of this Court under Article 227 of the Constitution of India to disturb the findings of fact, I am not inclined to entertain this writ petition. The writ petition, therefore, fails and is dismissed as such.

(D.B.Bhosale, J.)